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ABSTRACT

Presented are model statutory provisions for the education of handicapped children which are intended as a supplement to regular school laws. (The model statutes originally appeared in State Law and Education of Handicapped Children: Issues and Recommendations and have been announced as ED 056 452 and EC 040 597.) A model law for compulsory school attendance is included to cover the problematic tendency to exclude children with special problems from the requirements of regular school attendance. The remaining sections, arranged as a supplementary title of a comprehensive state school law, concern policy, definitions, state and local responsibilities (special education services administration, special education centers, interschool district responsibilities), planning, identification of handicapped children, provision of special educational materials and training, remedies, technical assistance and personnel training, facilities, and finance. (GW)

ED 067780

A MODEL LAW
FOR THE
EDUCATION OF
SEVEN MILLION
HANDICAPPED CHILDREN

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ABSTRACTED - CEC ERIC



Only 40 percent of the nation's seven million handicapped children are receiving any special education services. Even less are receiving the quantity and quality of education that will enable these children to realize their potential both as producers and as fulfilled individuals. It is with the purpose of correcting this situation that The Council for Exceptional Children, a professional association concerned with the education of the handicapped, through its Governmental Relations Unit and its State-Federal Information Clearinghouse for Exceptional Children developed these comprehensive model state statutes for the education of handicapped children. The statutes are intended to serve two purposes. One is to indicate the elements of state policy required to educate handicapped children effectively, and second to assist states in assessing the present status of their state codes.

The model statutes originally appeared in State Law & Education of Handicapped Children: Issues and Recommendations which provides an extensive discussion of background and present status of state legislation for the education of handicapped children, and finally makes recommendations for improving such legislation. Also available from the Council is a digest of state and federal laws relating to the education of handicapped children presenting an exhaustive, digested version of all state and federal laws pertaining to the education of these children.

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Model Statutes

Every state has a comprehensive school law. It covers the organization and functions of the one or more state education agencies, qualifications for teachers and other school professionals, state-local relations, local public school systems, the role of private schools, and compulsory school attendance.

For normal children, the regular school law is a sufficient and generally all-inclusive legal basis for the free public education they receive or a prescription of the conditions under which they may substitute private schooling.

For the handicapped, supplementary provisions are necessary. Children who have many kinds of physical, mental, emotional, or learning impairments frequently can function in the regular public school setting only if certain aids and auxiliary services designed to ameliorate or overcome the impediments imposed by their handicaps are supplied. In other instances, special environments are needed to enable the handicapped to secure the equivalent of what most children receive entirely from the regular programs or, where this is impracticable, to receive education suited to their conditions and needs. Laws in every state related to special education provide the basis on which the handicapped gain access to the free public education, which is the responsibility of the state to provide.

The following pages contain a comprehensive set of model statutory provisions designed to provide a full legal basis for practicable and effective programs of education for handicapped children. The intention is that they should be considered by states wishing to revise or update their laws relating to the education of the handicapped. Since this group of children is part of the population to which the comprehensive state school law applies and should continue to apply, the models are designed for incorporation into that law.

States considering a major overhaul of their education statutes may wish to regard the models taken in their entirety as a complete set of provisions relating to special education for the handicapped. Other states may wish to consider some of the individual provisions for addition to the existing statutes or as substitutions for particular provisions needing improvement.

The materials are presented in a number of distinct parts. The first of them is brief and applies to all children. It is a compulsory school attendance law in two short sections. It is included because one of the most serious problems in attempting to secure education for the handicapped is the tendency to excuse children with special problems from the requirements of regular school attendance. Statutes which condone or provide for such a course signal a failure of the public educational system to reach large groups of children for which it is intended. In many cases,

they also contravene statutory or constitutional provisions which purport to afford education for all.

The other parts are arranged as a title of a comprehensive state school law. This title relates to special education for the handicapped. It does not replace the regular school law but is a supplement to it.

Brackets [] are used to set off alternative language or to indicate areas for insertion of appropriate existing state law or policy.

MODEL COMPULSORY SCHOOL ATTENDANCE LAW

1 Section 1.

2 School Attendance and Instruction Required

3 All children between the ages of [] and [] shall attend the
4 public schools, or such other schools as may be approved by the
5 [state education agency] for the purposes of satisfying compulsory
6 school attendance requirements, and shall receive instruction therein.

7 Section 2.

8 Programs of Instruction

9 (a) No child shall be exempt from the requirements of Section 1
10 hereof, nor shall the authorities legally charged with responsibility
11 for the education of children be relieved from the obligation to pro-
12 vide suitable instruction. The public school authorities shall provide
13 such special programs of education, corrective and related services
14 as may be appropriate to enable all children of the following classes
15 to meet the requirements of Section 1 of this Act:

16 1. Children who are unable to benefit sufficiently from the regular
17 programs of instruction by reason of their mental, physical, emotional
18 or learning problems, or for any other reason.

19 2. Children whose degree or kind of disability or illness precludes
20 attendance in a regular school setting.

21 (b) A child shall be deemed to be of the type described in sub-
22 section (a) hereof only upon certification pursuant to rules and
23 regulations of the [state education agency] that he is suffering from
24 physical or mental illness or disease of such severity as to make
25 his presence in a school facility or his travel to and from such
26 facility impossible or dangerous to his health or the health of others.
27 For such children, home, hospital, institutional or other regularly
28 scheduled and suitable instruction meeting standards of the [state
29 education agency] shall be provided by the public schools.

TITLE _____
EDUCATION OF THE HANDICAPPED

Part I. Policy

Section 100.

Provision and Implementation

It is the policy of this state to provide, and to require school districts to provide, as an integral part of free public education, special education sufficient to meet the needs and maximize the capabilities of handicapped children. The timely implementation of this policy to the end that all handicapped children actually receive the special education necessary to their proper development is declared to be an integral part of the policy of this state. This section applies to all handicapped children regardless of the schools, institutions, or programs by which such children are served.

Section 101.

Services Mandatory

The [state education agency] shall provide or cause to be provided by school districts all regular and special education, corrective and supporting services required by handicapped children to the end that they shall receive the benefits of a free public education appropriate to their needs. It shall be within the jurisdiction of the [state education agency] to organize and to supervise schools and classes according to the regulations and standards established for the conduct of schools and classes of the public school system in the state in all institutions wholly or partly supported by the state which are not supervised by public school authorities. Schools and classes so established in wholly state owned institutions shall be financed by the [state education agency].

Section 102.

Preference for Regular Programs

To the maximum extent practicable, handicapped children shall be educated along with children who do not have handicaps and shall attend regular classes. Impediments to learning and to the normal functioning of handicapped children in the regular school environment shall be overcome by the provision of special aids and services rather than by separate schooling for the handicapped. Special classes, separate schooling or other removal of handicapped children from the regular educational environment, shall occur only when, and to the extent that the nature or severity of the handicap is such that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily.

1 Section 103.

2 Facilities

3 Physical aspects and specifications of schools, classrooms and
 4 other facilities for, or likely to be used by handicapped children,
 5 shall be related to their special physical, educational and psycho-
 6 logical needs. To this end, school districts, [Special Education Serv-
 7 ices Associations], agencies of the state and its subdivisions, and
 8 any private persons or entities constructing, renovating or repairing
 9 facilities with or aided by public funds, which facilities are expressly
 10 intended for or are likely to be used by handicapped children, shall
 11 plan, locate, design, construct, equip, and maintain them with due
 12 regard for the special capabilities, handicaps and requirements of the
 13 handicapped children to be accommodated therein.

14 Section 104.

15 Responsibilities

16 It is the responsibility of local governments and school districts
 17 to expend effort on behalf of the education of each handicapped
 18 child equal to the effort expended on account of the education of
 19 each child who does not have a handicap. Any additional effort
 20 necessary to provide supplemental aids and services shall be the ulti-
 21 mate responsibility of the state but shall, to the maximum extent
 22 practicable, be administered through the local school districts.

23 Section 105.

24 Private Programs

25 The responsibility of local governments, school districts, and the
 26 state, to provide a free public education for handicapped children
 27 is not diminished by the availability of private schools and services.
 28 Whenever such schools and services are utilized, it continues to be
 29 the public responsibility to assure an appropriate quantity and quality
 30 of instructional and related services, and the protection of all other
 31 rights, and to ascertain that all handicapped children receive the edu-
 32 cational and related services and rights to which the laws of this
 33 state entitle them.

34 Part II. Definitions

35 Section 200.

36 Definitions

37 As used in this Title

38 (a) "Handicapped child" means a natural person between birth
 39 and the age of twenty-one, who because of mental, physical, emo-
 40 tional or learning problems requires special education services.

(b) "Special education" means classroom, home, hospital, institutional or other instruction to meet the needs of handicapped children, transportation and corrective and supporting services required to assist handicapped children in taking advantage of, or responding to, educational programs and opportunities.

(c) "School district" means either a school district or a political subdivision operating a public school or public school system.

(d) "Special education facility" means a school or any portion thereof, remedial or supplemental facility or any other building or structure or part thereof intended for use in meeting the educational, corrective, and related needs of handicapped children.

Part III. State and Local Responsibilities

Section 300.

Establishment of Division

There is hereby established in the [State Education Agency] a Division for the Education of the Handicapped. The Division shall be headed by a Director who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of the [State Education Agency] relating to the handicapped.

Section 301.

Advisory Council

(a) There shall be an Advisory Council for the Education of the Handicapped which shall advise and consult with the [head of the state education agency] and the Director of the Division for the Education of the Handicapped, and which shall engage in such other activities as are hereinafter set forth. The Advisory Council shall be composed of [9] members who are not officers or employees of State agencies and no more than [4] of whom may be officers or employees of local school districts. The [head of the state education agency] shall appoint the members of the Advisory Council for [3] year terms, except that of those first appointed, [3] shall be appointed for terms of one year, [3] for terms of two years and [3] for terms of three years. Vacancies shall be filled for the unexpired term in the same manner as original appointments.

(b) The Advisory Council shall be composed of persons broadly representative of community organizations interested in the handicapped, professions related to the educational needs of the handicapped, and the general public.

(c) The Advisory Council annually shall elect its own chairman and vice chairman. The director of the Division for the Education of the Handicapped shall meet with and act as secretary to the

1 Advisory Council and, within available personnel and appropri-
 2 ations, shall furnish meeting facilities and staff services for the Advi-
 3 sory Council. The [state education agency] shall regularly submit,
 4 as part of its budget requests, an item or items sufficient to cover
 5 expenses of the operation of the Advisory Council and of its mem-
 6 bers in connection with their attendance at meetings of the Advisory
 7 Council, and other Advisory Council activities.

8 (d) The Council shall:

9 1. Have an opportunity to comment on rules and regulations pro-
 10 posed for issuance pursuant to this Title.

11 2. Consider any problems presented to it by the [head of the
 12 state education agency] or the Director of the Division for the Edu-
 13 cation of the Handicapped, and give advice thereon.

14 3. Review the State Plan prepared pursuant to Section 400 of
 15 this Title prior to its submission to the governor and legislature and
 16 comment thereon to the [head of the state education agency] and
 17 the Director of the Division for the Education of the Handicapped.

18 4. Make an annual report to the governor and legislature, and
 19 [the state board of education] which report shall be available to the
 20 general public and shall present its views of the progress or lack
 21 thereof made in special education by the state, its agencies and insti-
 22 tutions, and its school districts during the preceding year.

23 (e) Funds for the publication of the report referred to in sub-
 24 section (d) of this Section shall be made available from the regular
 25 appropriations to the [state education agency].

26 Section 302.

27 Special Education Services Association

28 A school district may meet its obligations to provide education,
 29 corrective, and supporting services for handicapped children, as
 30 set forth in this Title, and in any other laws and regulations of the
 31 [state education agency], by participating in a Special Education
 32 Services Association established and operated pursuant to this Title.

33 A Special Education Services Association may be the means
 34 whereby participating school districts perform all of their special
 35 education functions or perform only specified special education func-
 36 tions. In the latter case, participating school districts shall continue
 37 to provide special education and related services not provided by
 38 such an Association on an individual district basis or in some other
 39 manner pursuant to law.

40 Section 303.

41 Area and Manner of Establishment

42 A Special Education Services Association shall provide services for
 43 all the area included within the school districts participating in it.

1 It may be established by [resolution of each of the governing boards
2 of the school districts participating in it] [by vote of the electors in
3 each of the participating school districts in the same manner as a
4 school bond referendum].

5 Section 304.

6

Governing Board

7 The Governing Board of a Special Education Services Association
8 shall consist of representatives of the participating school districts.
9 Unless otherwise provided in a written agreement embodied in the
10 resolutions or propositions by which the Special Education Services
11 Association is established, each participating school district shall
12 have one representative. The representatives of each school district
13 on the Governing Board shall be [elected by the governing board
14 of the school district from its own members] [elected by the voters
15 of the school district]. Each such representative shall have one vote
16 on the Governing Board.

17 Section 305.

18

Powers of Governing Board

19 The affairs of a Special Education Services Association shall be
20 administered by its Governing Board, and the officers and employees
21 thereof. A Special Education Services Association shall have power
22 to:

23 (a) Establish and operate programs and classes for the education
24 of handicapped children.

25 (b) Acquire, construct, maintain and operate facilities in which to
26 provide education, corrective services, and supporting services for
27 handicapped children.

28 (c) Make arrangements with school districts participating in the
29 Special Education Services Association for the provision of special
30 education, corrective, and supporting services, to the handicapped
31 children of such school districts.

32 (d) Employ special education teachers and personnel required to
33 furnish corrective or supporting services to handicapped children.

34 (e) Acquire, hold and convey real and personal property.

35 (f) Provide transportation for handicapped children in connection
36 with any of its programs, classes or services.

37 (g) Receive, administer and expend funds appropriated for its use.

38 (h) Receive, administer and expend the proceeds of any issue of
39 school bonds or other bonds intended wholly or partly for its benefit.

40 (i) Apply for, accept, and utilize grants, gifts, or other assistance,
41 and, if not contrary to law, comply with the conditions, if any,
42 attached thereto.

1 (j) Participate in, and make its employees eligible to participate
2 in, any retirement system, group insurance system, or other program
3 of employee benefits, on the same terms as govern school districts and
4 their employees.

5 (k) Do such other things as are necessary and incidental to the
6 execution of any of the foregoing powers, and of any other powers
7 conferred upon Special Education Services Associations elsewhere
8 in this Title or in other laws of this state.

9 Section 306.

10 Special Education Centers

11 (a) A Special Education Services Association may establish and
12 operate one or more special education centers to provide diagnostic,
13 therapeutic, corrective, and other services, on a more comprehensive,
14 expert, economic and efficient basis than can reasonably be provided
15 by a single school district. Such services may be provided in the
16 regular schools by personnel and equipment of a center or, whenever
17 it is impractical or inefficient to provide them on the premises of a
18 regular school, the center may provide services in its own facilities.
19 To the maximum extent feasible, such centers shall be established
20 at, in conjunction with, or in close proximity to one or more elemen-
21 tary and secondary schools.

22 (b) Centers established pursuant to this Section also may contain
23 classrooms and other educational facilities and equipment to supple-
24 ment instruction and other services furnished to handicapped chil-
25 dren in the regular schools, and to provide separate instruction to
26 children whose degree or kind of handicap makes it impracticable
27 or inappropriate for them to participate in classes with normal
28 children.

29 (c) Centers established pursuant to this Section may include
30 dormitory and related facilities and services in order to permit handi-
31 capped children who may not reasonably go to and from home daily
32 to receive educational and related services.

33 (d) No facilities may be acquired or constructed pursuant to this
34 Section unless application therefor has been made by the Special
35 Education Services Association to the Division of Education for the
36 Handicapped and a permit for such facilities has been issued by the
37 Division. The permit may contain such conditions as the Division
38 may deem appropriate to assure conformity with the policy of this
39 Title. No permit shall be issued unless the Division of Education
40 for the Handicapped is satisfied that every effort has been and is
41 being made to accommodate the educational or related services in
42 regular school buildings or on regular school premises, and, that
43 separate facilities are necessary.

1 Section 307.

2 Relation to School Districts

3 (a) A Special Education Services Association shall provide edu-
 4 cation, corrective and supporting services for all handicapped children
 5 who are residents thereof, except for special education, corrective,
 6 and supporting services that are provided directly by the state, and
 7 any special education, corrective, and supportive services as, pursuant
 8 to the agreement under which the Association functions, are expressly
 9 reserved for continued provision by the individual school districts.
 10 To the maximum extent practicable, a Special Education Services
 11 Association shall make such provision in the regular schools of the
 12 school districts served by the Special Education Services Association
 13 or in its own facilities established and operated pursuant to Section
 14 305 of this Title. A Special Education Services Association shall
 15 make arrangements with, and payments to, private schools, institu-
 16 tions, and agencies, for services to handicapped children only if it
 17 is unable to provide satisfactory service with its own facilities and
 18 personnel, and the facilities and personnel of its member school
 19 districts.

20 (b) A Special Education Services Association shall provide home
 21 or hospital instruction, corrective, and supporting services to handi-
 22 capped children, but only in cases where the nature and severity of
 23 the handicap make the provision thereof in the regular schools, or
 24 in other facilities of the Special Education Services Association, the
 25 state, or in suitable private facilities, impracticable.

26 (c) A school district may qualify, for the purposes of state aid,
 27 as a Special Education Services Association, if it provides a full
 28 complement of educational, corrective and supporting services, exclu-
 29 sive of services provided directly by the state, for all handicapped
 30 children resident within its boundaries. Upon application made pur-
 31 suant to Section 308 (c) of this Title the [state education agency]
 32 shall determine whether the applicant school district meets the
 33 requirements of the subsection.

34 Section 308.

35 Application for Special Education Services Association Status

36 (a) Any Special Education Services Association which is in the
 37 process of formation, and which proposes to qualify for state aid,
 38 shall submit the interschool district agreement pursuant to which it
 39 proposes to function to the [state education agency]. Such submis-
 40 sion may be either prior or subsequent to adoption of the agreement
 41 and the resolution or proposition required by Section 302 of this

1 Title but no Special Education Services Association shall receive
2 state aid unless it has been approved therefor by the [state education
3 agency].

4 (b) The [state education agency] shall approve a Special Educa-
5 tion Services Association for state aid if it determines that:

6 1. The Association complies with all provisions of this Title, or if
7 the Association is not yet in operation, that it will have the resources
8 and authority to comply therewith.

9 2. The geographic area served or to be served by the Special Edu-
10 cation Services Association is not so located or of such a configura-
11 tion as to exclude one or more other school districts from effective
12 participation in a Special Education Services Association or from
13 forming a viable Association of their own.

14 (c) A school district may apply for and receive the status of a
15 Special Education Services Association by submitting to the [state
16 education agency] an appropriate resolution of its governing board
17 requesting such status. The provisions of Section 309 hereof shall
18 not apply to an application submitted pursuant to this subsection,
19 but the application shall not be approved unless the [state education
20 agency] finds that the school district complies with subsection (b) 1
21 of this Section, and that it maintains a full complement of special
22 education facilities and programs.

23 Section 309.

24 Interschool District Agreement

25 (a) Each Special Education Services Association, other than one
26 composed of a single school district, shall function pursuant to and
27 in accordance with an interschool district Agreement (hereinafter
28 referred to as "the Agreement"). The Agreement may be incor-
29 porated in the resolution or other action establishing the Special
30 Education Services Association or may be a separate document. In
31 any case, however, it shall be adopted either by affirmative vote of
32 each of the governing boards of the school districts participating in
33 the Special Education Services Association or by affirmative vote
34 of the electors in each such school district.

35 (b) An Agreement shall contain:

- 36 1. A precise identification of the party school districts.
- 37 2. An enumeration or other precise delineation of the services to
38 be provided by the Special Education Services Association.
- 39 3. Provisions relating to the internal management and control of
40 the Special Education Services Association.
- 41 4. Provisions defining the relationships between the party school
42 districts and the Special Education Services Association in regard to
43 the responsibilities for regular education of handicapped children and

1 special education, corrective and supporting services for handicapped
2 children.

3 5. Provisions fixing the financial responsibilities of each party
4 school district to the Special Education Services Association or
5 setting forth formulas, procedures and other specific methods for
6 the calculation thereof.

7 6. A minimum duration for the Agreement.

8 7. Provisions for amendment, renewal, withdrawal from or ter-
9 mination of the Agreement.

10 8. Provisions for the disposition of Special Education Services
11 Association property upon dissolution of the Association.

12 9. Financial settlement, if any, with a withdrawing school district.

13 10. Any other necessary or appropriate provisions.

14 (c) Prior to becoming effective, an Agreement shall be submitted
15 to the [state education agency] and the Attorney General, and it
16 shall not go into effect unless approved thereby. Failure to respond
17 to a submission within [90] days shall constitute approval thereof.

18 (d) 1. The [state education agency] shall approve a submitted
19 Agreement, unless it finds that the provisions thereof do not accord
20 with this Title and the policies set forth herein, or unless it finds that
21 the Agreement does not contain sufficient evidence that the Special
22 Education Services Association will have the means of providing
23 the facilities, personnel and services necessary to fulfill its obligations
24 toward handicapped children.

25 2. The Attorney General shall approve a submitted Agreement,
26 unless he finds it to be in improper form, or unless he finds one or
27 more of its provisions contrary to law.

28 Section 310.

29 Contracts Not Prohibited

30 Nothing in this part shall be construed to prevent a school district
31 from providing educational, corrective, or supporting services for
32 handicapped children by contracting with another school district to
33 provide such services for handicapped children from such other
34 district.

35 Section 311.

36 Withdrawal and Dissolution

37 (a) A school district which is included in a Special Education
38 Service Association may withdraw from participation in any part
39 of the Association only with the approval of the Director of the
40 Division for the Education of the Handicapped after he has conferred
41 with the district and is satisfied that such withdrawal is in the interest
42 of the handicapped children in the Association and the school dis-

1 trict affected. Such withdrawal shall be effective only if the school
2 board has the approval of the Director of the Division of the Edu-
3 cation of the Handicapped to establish a comparable part of a pro-
4 gram. Such withdrawal shall not be effective until the end of the
5 next full school year. The withdrawing school district shall be liable
6 for its proportionate share of all operating costs until its withdrawal
7 becomes effective, shall continue to be liable for its share of debt
8 incurred while it was a participant and shall receive no share in the
9 assets.

10 (b) An Association established under this part may be dissolved
11 by action of its governing board, but such dissolution shall not take
12 place until the end of the school year in which the action was taken.
13 When an Association is dissolved, assets and liabilities shall be
14 distributed to all entities which participated in the Association.

15 Part IV. Planning

16 Section 400.

17 State Plan

18 (a) The [state education agency], acting through its Division for
19 the Education of the Handicapped, shall make and keep current a
20 plan for the implementation of the policy set forth in Part I of this
21 Title. The plan shall include:

22 1. A census of the handicapped children in the state showing the
23 total number of such children and the geographic distribution of
24 handicapped children as a whole.

25 2. Provision for diagnosis and screening of handicapped children.

26 3. An inventory of the personnel and facilities available to provide
28 instruction and other services for handicapped children.

27 4. An analysis of the present distribution of responsibility for spe-
29 cial education between the state and local school systems and general
30 units of local government, together with recommendations for any
31 necessary or desirable changes in the distribution of responsibilities.

32 5. Identification of the criteria for determining how handicapped
33 children are to be educated.

34 6. Standards for the education to be received by each of the sev-
35 eral categories of handicapped children in regular schools or school
36 districts and in state institutions, including methods of assuring that
37 education afforded the handicapped will be as nearly equivalent as
38 may be to that afforded regular children and also will take account
39 of their special needs.

40 7. A program for the preparation, recruitment and inservice
41 training of personnel in special education and allied fields, including
42 participation, as appropriate, by institutions of higher learning, state
43 and local agencies, and any other public and private entities having
44 relevant expertise.

1 8. A program for the development, acquisition, construction and
2 maintenance of facilities, and new, enlarged, redesigned and replace-
3 ment facilities needed to implement the policy of this Title.

4 9. A full description of the state plan for providing special educa-
5 tion to all handicapped children in this state, including each of the
6 matters enumerated herein, and any other necessary or appropriate
7 matters.

8 10. Any additional matters which may be necessary or appro-
9 priate, including recommendations for amendment of laws, changes
10 in administrative practices and patterns of organization, and changes
11 in levels and patterns of financial support.

12 (b) The plan required by subsection (a) hereof shall be pre-
13 sented to the Governor and the Legislature and made available for
14 public distribution no later than []. Thereafter, amendments
15 to or revisions of the plan shall be submitted to the Governor and
16 Legislature and made available for public distribution no less than
17 [90] days prior to the convening of each regular session of the
18 Legislature. All such submissions, except for the initial submission
19 of the plan, shall detail progress made in fulfilling the plan and in
20 implementing the policy of this Act.

21 Section 401.

22 Local Planning and Responsibility

23 (a) On or before [], each school district shall report to
24 the [state education agency] the extent to which it is then providing
25 the special education for handicapped children necessary to imple-
26 ment fully the policy of this Title. The report also shall detail the
27 means by which the school district or political subdivision proposes
28 to secure full compliance with the policy of this Title, including:

29 1. A precise statement of the extent to which the necessary educa-
30 tion and services will be provided directly by the district pursuant to
31 law requiring such direct provision.

32 2. A precise statement of the extent to which standards in force
33 pursuant to Section 400(a)6 of this Title are being met.

34 3. An identification and description of the means which the school
35 district or political subdivision will employ to provide, at levels meet-
36 ing standards in force pursuant to Section 400(b) of this Title, all
37 special education not to be provided directly by the state.

38 (b) After submission of the report required by subsection (a)
39 hereof, the school district shall submit such supplemental and addi-
40 tional reports as the [state education agency] may require, in order
41 to keep the plan current. By rule or regulation, the [state education
42 agency] shall prescribe the due dates, form and all other necessary
43 or appropriate matters relating to such reports.

1 (c) For the purposes of this Section, handicapped children being
 2 furnished special education in state schools or other state facilities
 3 shall continue to be the planning responsibility of the school district
 4 in which they would be entitled to attend school if it were not for the
 5 direct provision of special education to them by the state. A record
 6 of each such child, the nature and degree of his handicap and of the
 7 way in which his educational needs are being met shall be kept by
 8 the school district.

9 Section 402.

10 Interstate Cooperation

11 Any state and local plans made pursuant to this Part shall take
 12 into account the advantages and disadvantages in providing special
 13 education to particular kinds of handicapped children through coop-
 14 erative undertakings with other jurisdictions. In addition to any
 15 arrangements that may be made pursuant to Sections 302-305 of this
 16 Title, the state or school district may enter into agreements with
 17 other school districts or states to provide such special education:
 18 provided that a child receiving special education outside the school
 19 district in which he would normally attend public school shall con-
 20 tinue to be the responsibility of such school district and nothing
 21 herein shall be deemed to relieve the school district from compliance
 22 with the requirements of this Title.

23 (b) Agreements made pursuant to this Section may include the
 24 furnishing of educational and related services, payment of reason-
 25 able costs thereof, the making of capital contributions toward the
 26 construction or renovation of joint or common facilities or facilities
 27 regularly made available by one party jurisdiction to the handicapped
 28 children of another party jurisdiction, and furnishing of or respon-
 29 sibility for transportation, lodging, food and related living costs.

30 (c) Any child given educational or related services and any parent
 31 or guardian of such child, pursuant to this Section and any agreement
 32 made pursuant hereto, shall continue to have all civil and other
 33 rights that he would have if receiving like education or related serv-
 34 ices within the subdivision or school district where he would normally
 35 attend public school. No agreement made on the authority of this
 36 Section shall be valid unless it contains a provision to such effect.

37 Part V. Identification of Handicapped Children

38 Section 500.

39 Children Attending School

40 Every school district shall test and examine, or cause to be tested
 41 and examined, each child attending the public and private schools
 42 within its boundaries in order to determine whether such child is

1 handicapped. The tests and examinations shall be administered on a
 2 regular basis in accordance with rules and regulations of the [State
 3 Education Agency]. As used in this Part, the term "schools" shall
 4 mean kindergartens and grades 1-12 and, if the school district pro-
 5 vides educational programs below kindergarten level or above grade
 6 12 to all children attending such programs.

7 Section 501.

8 Limitation

9 The requirements of Section 500 shall not apply to children attend-
 10 ing private schools, if the children are not residents of this state
 11 provided that if the state or the school district had an agreement with
 12 another state or school district requiring such tests and examina-
 13 tions, the school district shall administer them and report the results
 14 to the school district of the child's residence.

15 Section 502.

16 Records

17 Every school district shall make and keep current a list of all
 18 handicapped children required to be tested and examined pursuant to
 19 Sections 500 and 501 of this Title who are found to be handicapped
 20 and of all children who are residents of the school district and are
 21 receiving home, hospital, institutional or other special education serv-
 22 ices in other than regular programs.

23 Part VI. Provision of Special Education Materials and Training

24 Section 600.

25 [Unit] Established

26 There shall be in the Division for the Education of the Handi-
 27 capped a "Special Education Materials and Training Unit," hereinafter
 28 called ["the Unit"], for the purpose of assisting in the education of
 29 handicapped persons.

30 Section 601.

31 Functions

32 In addition to any functions in which it may engage pursuant to
 33 other provisions of this Title or other laws, the [Unit] may:

34 (a) Develop, test, demonstrate, maintain, purchase or otherwise
 35 acquire, store, produce if not reasonably obtainable from commer-
 36 cial sources, and make available equipment, materials, and special
 37 supplies and devices particularly useful in connection with the edu-
 38 cation of handicapped persons.

39 (b) Study, develop, and disseminate information concerning tech-
 40 niques for teaching handicapped persons.

1 (c) Collect, evaluate, and disseminate research data and other
2 information related to special equipment, materials, supplies, devices,
3 techniques and training.

4 (d) Provide instruction in the operation or use of equipment,
5 materials, supplies, and devices of the type referred to in item 1
6 of this enumeration.

7 (e) Provide in-service training for teachers of handicapped per-
8 sons and other persons requiring special skills or understanding in
9 connection with the education of handicapped persons.

10 (f) Accept, administer, and utilize federal aid and any other
11 grants, gifts, or donations of funds, equipment, materials, supplies,
12 facilities, and services in connection with any of its authorized func-
13 tions, and comply with any requirements or conditions attached
14 thereto: provided that the same are not inconsistent with law.

15 Section 602.

16 Availability of Programs

17 (a) The [Unit] shall furnish, lend, or otherwise make available
18 its equipment, materials, supplies, and devices to public school sys-
19 tems, private nonprofit schools, special schools or institutions for
20 handicapped children, and public and private nonprofit institutions
21 of higher learning.

22 (b) Public and private nonprofit institutions and organizations
23 operating programs of vocational rehabilitation [recognized or
24 approved] pursuant to [cite appropriate statute] also shall be eli-
25 gible in the same manner as institutions qualifying under subsection
26 (a) hereof.

27 (c) Pre-school public and private nonprofit programs for the
28 education of handicapped children also shall be eligible in the same
29 manner as institutions qualifying under subsection (a) hereof, if
30 approved by the [Unit].

31 (d) Handicapped persons may apply for and receive equipment,
32 materials, supplies and devices on an individual basis of the [Unit]
33 has established loan or other services for making the same available
34 to users not covered by subsections (a)-(c) hereof and has provided
35 appropriate procedures therefor.

36 (e) The [Unit] shall make equipment, materials, supplies, or
37 devices available pursuant to subsections (a)-(c) hereof only on
38 written application made in such form and manner as it may pre-
39 scribe. The application shall be approved, and equipment, mate-
40 rials, supplies, or devices furnished only if the [Unit] is satisfied
41 that the applicant has a need therefor and is capable of putting them
42 to appropriate use. Applications shall contain information concerning
43 the number of handicapped children for whom the applicant is pro-

1 viding instruction or, in the case of a new institution or program,
 2 the number expected to be so served; the type or types of handicap;
 3 and such other information as the [Unit] may require.

4 Section 603.

5 Regional Service

6 (a) Except as may be provided pursuant to this Section, the
 7 [Unit] shall provide equipment, materials, supplies, devices and
 8 in-service training only to schools and school systems, institutions,
 9 organizations, and persons in this state.

10 (b) In view of the specialized character of the functions of the
 11 [Unit], it is recognized that its support and utilization on a multi-
 12 state or regional basis may promote efficiency and economy, and
 13 may make it possible for more persons in need of special education
 14 to receive it. Accordingly, it is the policy of this state to encourage
 15 multistate and regional cooperation to that end.

16 (c) The [State Department of Education] may enter into con-
 17 tracts with other states or their appropriate educational agencies for
 18 the furnishing of services, equipment, materials, supplies, or devices
 19 by the [Unit]. Such contracts may provide for the carrying on of
 20 any one or more functions which the [Unit] is authorized to per-
 21 form in such manner as to serve schools and school systems, insti-
 22 tutions, organizations, and persons in such other state or states:
 23 provided that unless the activities covered by the contract are financed
 24 entirely by the other state or states, including the maintenance of a
 25 separate staff or the pro rata contribution to the salaries and other
 26 compensation of staff partly employed for the benefit of one or more
 27 other states and this state, no school or school system, institution,
 28 organization, or person may be furnished with equipment, materials,
 29 supplies, devices, or training who would be ineligible to receive the
 30 same under the laws of this state.

31 (d) Contracts made pursuant to this Section shall provide for:

- 32 1. their duration;
- 33 2. appropriate consideration and the payment thereof;
- 34 3. the nature and extent of the equipment, materials, supplies,
- 35 devices, and training to be furnished and received;
- 36 4. the performance of inspections and examinations and the mak-
- 37 ing of reports; the evaluation thereof; and the granting or denial of
- 38 benefits on the basis thereof;
- 39 5. any other necessary and appropriate matters.

40 (e) Consideration provided by any contract made with the [State
 41 Department of Education] pursuant to this Section shall be at least
 42 sufficient to cover the cost of any equipment, materials, supplies, or
 43 devices furnished, and an equitable share of the operating costs in

1 connection with any in-service training given to persons from other
 2 states. It shall be a guiding principle for the making of contracts
 3 pursuant to this Section that if the use made or to be made of the
 4 [Unit] by another state is in excess of [10] per cent of the use
 5 made by this state and schools and school systems, institutions, organ-
 6 izations, or persons in this state, consideration required from such
 7 other state shall include an equitable contribution to overhead and
 8 capital costs, as well as to operating costs and costs of equipment,
 9 materials, supplies, and devices furnished.

10 Section 604.

11 Contracting Authority

12 The [State Education Agency] is authorized to enter into con-
 13 tracts for the furnishing of equipment, materials, supplies, devices,
 14 and personnel training that are peculiarly useful in the teaching of
 15 handicapped children. The [State Education Agency] may pay such
 16 consideration, out of funds available therefor, as may be appropriate
 17 and equitable in the circumstances. If another state, public agency,
 18 or private nonprofit agency establishes and maintains a substantial,
 19 specialized program for the development, production, procurement,
 20 and distribution of special equipment, materials, supplies, and devices,
 21 or for the training of personnel useful in the teaching of handicapped
 22 children, and if the contract or contracts entered into pursuant to
 23 this Section assure this state of substantial benefits therefrom on a
 24 continuing basis, consideration paid by the [State Education Agency]
 25 may be calculated to include overhead and capital costs as well as
 26 more immediately operational costs and the costs of any articles or
 27 services furnished or to be furnished.

28 Section 605.

29 Availability of Articles and Services

30 Any articles or services secured by or through the [State Educa-
 31 tion Agency] pursuant to contracts made under authority of this
 32 Title may be made available to any school systems, special schools,
 33 or other persons and entities entitled to participate in or receive
 34 benefits from special services to the handicapped. The ultimate appor-
 35 tionment and bearing of costs as among the state, subdivisions
 36 thereof and other persons and entities shall be in accordance with
 37 law.

38 Section 606.

39 Inspections, Reports, and Records

40 (a) The [Unit] may inspect the facilities of any applicant for
 41 or recipient if its equipment, materials, supplies, and devices and

1 may examine any pertinent records in order to determine facts rele-
 2 vant to the administration of this Title. For this purpose, the [Unit]
 3 and its duly authorized representatives shall have access to the prem-
 4 ises and any pertinent records of the applicant or recipient at all
 5 reasonable times.

6 (b) The [Unit] may require reasonable reports from any recip-
 7 ient institution or program detailing the uses made of equipment,
 8 materials, supplies, and devices made available pursuant to this
 9 Title, and of the workability or beneficial effects obtained therefrom.

10 (c) The [Head of the State Education Agency] may provide for
 11 the consolidation of inspections, examinations of records, and making
 12 of reports pursuant to this Section with other inspections, exami-
 13 nations, and reports made or required to be made by the [State
 14 Education Agency] or may permit them to be separate, as in his
 15 judgment is most appropriate to the proper administration of this
 16 Title and the promotion of general efficiency.

17 Section 607.

18 Relationship of the Unit to Other Entities

19 (a) Unless the function is performed for it by a Special Edu-
 20 cation Services Association each school district and state institution
 21 shall establish and maintain a special education resources center
 22 which shall perform the functions of procurement, maintenance,
 23 servicing and distribution of special education equipment, supplies
 24 and materials to the schools of the district and to any other persons
 25 or entities to which they are made available pursuant to law. Special
 26 education equipment, supplies, and materials made available to
 27 schools and other entities shall be provided, made available and
 28 inventoried by such center.

29 (b) To the extent of its capabilities, a special education resources
 30 center may establish and operate or cooperate with others in estab-
 31 lishing and operating programs of in-service training similar to those
 32 authorized for the state unit by Part VIII of this Title.

33 (c) Centers established as required by this Section shall cooperate
 34 with and may borrow or otherwise obtain from the state unit, regional
 35 instructional materials centers, federal and other governmental agen-
 36 cies, and appropriate private agencies such equipment, supplies and
 37 materials as may be available therefrom and may be responsible for
 38 their proper distribution to and collection from schools and other
 39 entities entitled to receive and utilize them.

40 (d) It is the purpose of this Section to promote the efficient
 41 and expert use of special education aids and to discourage their
 42 being positioned, kept or made available for use by persons and

1 under conditions not conducive to their proper employment. The
 2 Division for the Education of the Handicapped shall develop, revise
 3 and keep in force regulations and guidelines for the operation of
 4 centers and for their relationships to schools or other proper recip-
 5 ient entities. The state Unit shall assist centers in their programs of
 6 training, equipment servicing, distribution and general administration.
 7 (e) The state Unit shall encourage the maintenance of centers
 8 by Special Education Services Associations on behalf of their par-
 9 ticipating school districts, except in those instances where an indi-
 10 vidual school district has qualified as a Special Education Services
 11 Association.

12 Part VII. Remedies

13 Section 700.

14 Administrative and Judicial Review

15 (a) A child, or his parent or guardian, may obtain review of
 16 an action or omission by state or local authorities on the ground that
 17 the child has been or is about to be:

18 1. denied entry or continuance in a program of special education
 19 appropriate to his condition and needs.

20 2. placed in a special education program which is inappropriate
 21 to his condition and needs.

22 3. denied educational services because no suitable program of
 23 education or related services is maintained.

24 4. provided with special education or other education which is
 25 insufficient in quantity to satisfy the requirements of law.

26 5. provided with special education or other education to which
 27 he is entitled only by units of government or in situations which are
 28 not those having the primary responsibility for providing the serv-
 29 ices in question.

30 6. assigned to a program of special education when he is not
 31 handicapped.

32 (b) The parent or guardian of a child placed or denied placement
 33 in a program of special education shall be notified promptly, by
 34 registered certified mail return receipt requested, of such placement,
 35 denial or impending placement or denial. Such notice shall contain
 36 a statement informing the parent or guardian that he is entitled to
 37 review of the determination and of the procedure for obtaining such
 38 review.

39 (c) The notice shall contain the information that a hearing may
 40 be had, upon written request, no less than [15] days nor more than
 41 [30] days from the date on which the notice was received.

42 (d) No change in the program assignment or status of a handi-
 43 capped child shall be made within the period afforded the parent

1 or guardian to request a hearing, which period shall not be less
 2 than [14] days, except that such change may be made with the
 3 written consent of the parent or guardian. If the health or safety
 4 of the child or of other persons would be endangered by delaying
 5 the change in assignment, the change may be sooner made, but with-
 6 out prejudice to any rights that the child and his parent or guardian
 7 may have pursuant to this Section or otherwise pursuant to law.

8 (e) The parent or guardian shall have access to any reports,
 9 records, clinical evaluations or other materials upon which the deter-
 10 mination to be reviewed was wholly or partially based or which could
 11 reasonably have a bearing on the correctness of the determination.
 12 At any hearing held pursuant to this Section, the child and his parent
 13 or guardian shall be entitled to examine and cross examine witnesses,
 14 to introduce evidence, to appear in person, and to be represented
 15 by counsel. A full record of the hearing shall be made and kept,
 16 including a transcript thereof if requested by the parent or guardian.

17 (f) A parent or guardian, if he believes the diagnosis or evalua-
 18 tion of his child as shown in the records made available to him
 19 pursuant to subsection (e) to be in error, may request an independent
 20 examination and evaluation of the child and shall have the right to
 21 secure the same and to have the report thereof presented as evidence
 22 in the proceeding. If the parent or guardian is financially unable to
 23 afford an independent examination or evaluation, it shall be provided
 24 at state expense.

25 (g) The [state education agency] shall make and, from time to
 26 time, may amend or revise rules and regulations for the conduct of
 27 hearings authorized by this Section and otherwise for the imple-
 28 mentation of its purpose. Among other things, such rules and regu-
 29 lations shall require that the hearing officer or board be a person
 30 or composed of persons other than those who participated in the
 31 action or who are responsible for the omission being complained
 32 of; fix the qualifications of the hearing officer or officers; and provide
 33 that the hearing officer or board shall have authority to affirm,
 34 reverse or modify the action previously taken and to order the
 35 taking of appropriate action. The rules and regulations shall govern
 36 proceedings pursuant to this Section, whether held by the [state
 37 education agency] or by a [local education agency].

38 (h) The determination of a hearing officer or board shall be sub-
 39 ject to judicial review [in the manner provided by the state admin-
 40 istrative procedure act] [in the manner provided for judicial review
 41 of determinations] of the [state or local education agency] as the
 42 case may be. [If there is no applicable procedure, appropriate statu-
 43 tory provisions should be added here].

44 (i) If a determination or hearing officer or board is not fully

1 complied with or implemented the aggrieved party may enforce it
 2 by a proceeding in the [] Court. Any action pursuant
 3 to this subsection shall not be a bar to any administrative or judicial
 4 proceeding by or at the instance of the [state education agency] to
 5 secure compliance or otherwise to secure proper administration of
 6 laws and regulations relating to the provision of regular or special
 7 education.

8 (j) The remedies provided by this Section are in addition to any
 9 other remedies which a child, his parent or guardian may otherwise
 10 have pursuant to law.

11 Section 701.

12 Enforcement Not Affected

13 Nothing in this Title shall be construed to limit any right which
 14 any child or his parent or guardian may have to enforce the pro-
 15 vision of any regular or special educational service; nor shall the
 16 time at which school districts are required to submit plans or pro-
 17 ceed with implementation of special education programs be taken
 18 as authorizing any delay in the provision of education or related
 19 services to which a child may otherwise be entitled.

20 Section 702.

21 Direct State Action

22 (a) If, at any time after [], a school district is
 23 found by the [state education agency] to have failed to provide
 24 necessary education to all handicapped children who by law are
 25 entitled to receive the same from such school district, the [state
 26 education agency] may withhold all or such portion of the state aid
 27 for the regular public schools as, in its judgment, is warranted. The
 28 denial of state aid hereunder may continue until the failure to provide
 29 special education required is remedied. Whether or not the [state
 30 education agency] elects to withhold aid pursuant to the preceding
 31 sentence, it may provide the education directly.

32 (b) No action pursuant to subsection (a) hereof shall be taken
 33 by the [state education agency], except after public hearing on due
 34 notice, and on a record that establishes the failure of the school dis-
 35 trict to provide special education of adequate quantity and quality.

36 (c) If the [state education agency] acts to provide special edu-
 37 cation pursuant to this Section, such action may include:

38 1. The hiring, employment, and direction of special education
 39 teachers and any necessary supporting professional and other per-
 40 sonnel.

41 2. The incorporation of such personnel into the affected school
 42 system.

1 3. The procuring and employment of such supplies, equipment
2 and facilities as may be reasonably necessary or appropriate.

3 4. The furnishing of such administrative supervision and services
4 as may be necessary to make the special education program effective.

5 5. The direct provision in state institutions or facilities of the
6 special education, except that no child shall be removed from the
7 school district in which he would regularly be entitled to receive
8 special education, without the consent of such child's parent or
9 guardian.

10 6. Any other incidental matters reasonably necessary to imple-
11 ment any one or more of the foregoing.

12 (d) Any costs incurred by the [state education agency] in admin-
13 istering subsections (a)-(c) of this Section shall be direct charges
14 against the school district and shall be paid thereby. If a school
15 district shall resist timely payment, the [state education agency]
16 may make payment and reimburse itself by appropriate judicial
17 proceedings against the school district.

18 (e) During any time when the [state education agency] is pro-
19 viding special education pursuant to this Section, it shall be a pur-
20 pose of the [state education agency] to assist the school district to
21 assume or reassume its full responsibilities for the provision of edu-
22 cation for handicapped children. However, no state aid pursuant to
23 Part X of this Title shall be given to a school district during or for
24 any period when the provision of special education on its account is
25 being administered directly by the [state education agency] pur-
26 suant to this Section. The [state education agency] shall return
27 responsibility to the school district as soon as it finds that it is willing
28 and able to fulfill its responsibilities pursuant to law.

29 Part VIII. Technical Assistance and Personnel Training

30 Section 800.

31 Technical Assistance

32 The [state education agency], upon the request of any school
33 district shall provide technical assistance in the formulation of any
34 plan or subsequent report required pursuant to Section 401 of this
35 Title. However, any such assistance shall be only advisory and con-
36 sultative in character and shall not be designed to transfer either in
37 whole or in part, the responsibility for or actual development of the
38 plan or report.

39 Section 801.

40 In-Service Training

41 The in-service training programs of the Special Education Mate-

1 rials and Techniques Unit shall be available to any teacher of handi-
 2 capped persons in the regular employ of any school system, insti-
 3 tution, organization, or program which could be an eligible applicant
 4 for equipment, materials, supplies, or devices pursuant to Section
 5 602 of this Title. However, the locations, times, duration, and spe-
 6 cific educational or experience prerequisites for particular training
 7 programs or courses shall be determined by the [Unit].

8 Section 802.

9 Training

10 (a) The Division for the Education of the Handicapped may make
 11 traineeship or fellowship grants to persons who are interested in
 12 working in programs for the education of handicapped children, for
 13 either part-time or full-time study in programs designed to qualify
 14 them as special education personnel. Persons to qualify for a trainee-
 15 ship must have earned at least [sixty] semester hours of college
 16 credit and persons to qualify for a fellowship must be graduates of
 17 a recognized college or university. Such traineeships and fellowships
 18 may be in amounts of not more than [\$] per academic year
 19 for traineeships and not more than [\$] per academic year
 20 for fellowships with [\$] per year per legal dependent except
 21 in addition, an additional sum up to [\$] annually for each
 22 grantee may be allowed to any approved institution of higher learn-
 23 ing in this state for the actual cost to the institution, as certified by
 24 the institution. Part-time students and summer session students may
 25 be awarded grants on a prorata basis.

26 (b) The Division for the Education of the Handicapped may con-
 27 tract with any approved institution of higher learning to offer courses
 28 required for the training of special education personnel at such times
 29 and locations as may best serve the needs of handicapped children
 30 in this state.

31 (c) The Division for the Education of the Handicapped shall
 32 administer traineeship and fellowship accounts and related records
 33 of each person who is attending an institution of higher learning
 34 under a traineeship or fellowship awarded pursuant to this Section.

35 (d) Following the completion of the program of study, the recip-
 36 ient of a traineeship or fellowship is expected to accept employment
 37 within one year in an approved program of education for handi-
 38 capped children in this state on the basis of one-half year of service
 39 for each academic year of training received through a grant made
 40 under this Section. A person who fails to comply with this provision
 41 may, at the discretion of the Division for the Education of the Handi-
 42 capped be required to refund all or part of traineeship or fellowship
 43 monies received.

1 Section 803.

2 Grants

3 The Division may provide grants to public and private agencies
4 for such research, development, and model programs as are required
5 to promote effective special education.

6 Part IX. Facilities

7 Section 900.

8 Regular School Facilities

9 (a) Every school district of this state constructing, renovating,
10 remodeling, expanding or modifying school buildings or other struc-
11 tures intended as adjuncts thereto shall plan, design, construct and
12 equip all such buildings and structures in such manner and with
13 such materials as will facilitate use by all handicapped children who
14 may reasonably be expected to enter upon the premises and to make
15 use of them for instructional, remedial or supplementary services.
16 This Section shall be interpreted and administered in the light of the
17 policy of this state to educate and provide services for handicapped
18 children in or in close proximity to the regular schools to the maxi-
19 mum practicable extent.

20 (b) No school or school-related construction, renovation, remodel-
21 ing, expansion or modification shall be eligible for state aid pursuant
22 to [cite appropriate statute] unless the [state education agency]
23 finds that it is in conformity with subsection (a) hereof and [title
24 of state law prohibiting architectural barriers for the handicapped].

25 Section 901.

26 Plans and Specifications

27 (a) Plans and specifications for every special education facility
28 shall be prepared in two parts, as follows:

29 1. A statement of the educational and related objectives and func-
30 tions to be served and the uses to be made of the facility.

31 2. Architectural plans and specifications.

32 (b) Plans as required by subsection (a) hereof shall be submitted
33 to the [state education agency] for approval thereby. Such approval
34 shall be a prerequisite to the awarding of any construction contract
35 in connection with the facility, except for contracts for the develop-
36 ment of the plans and specifications required to be submitted: nor
37 shall any construction commence or permit therefor be issued prior
38 to approval of the plans and specifications by the [state education
39 agency].

40 (c) Approval shall be given only if the Division of Education
41 for the Handicapped determines that the architectural plans and

1 specifications properly implement the stated educational and related
 2 objectives and functions, and if the [state school construction agency]
 3 determines that the architectural plans and specifications provide for
 4 design, materials and equipment appropriate to serve the stated
 5 objectives and functions. If the submission is of plans and specifi-
 6 cations for a building or other structure which does not include a
 7 special education facility, approval by the Division of Education for
 8 the Handicapped shall be limited to a certification that the sub-
 9 mitting authority has other facilities adequate to meet the needs of
 10 handicapped children.

11 (d) No facility to which this Section applies shall be accepted by
 12 any agency of this state, or any school district, [Special Education
 13 Services Associations], or subdivision unless it conforms to the plans
 14 and specifications as approved, or as amended pursuant to sub-
 15 section (e) hereof.

16 (e) Subsequent to approval of plans and specifications pursuant
 17 to this Section, they may be amended on a showing that the stated
 18 educational and related objectives and functions have been replaced
 19 by other suitable objectives and functions and that the architectural
 20 plans and specifications have been modified to conform to the new
 21 objectives and functions, or that the proposed amendment of archi-
 22 tectural plans and specifications will not impair the suitability of
 23 the facility for the previously stated objectives and functions. Amend-
 24 ments shall be submitted and approved in the same manner as origi-
 25 nal submissions.

26 (f) Any entity which may be eligible for state aid pursuant to
 27 [cite statute providing state aid to construction of special education
 28 facilities], may qualify therefor only on submission and approval
 29 of plans and specifications in accordance with this Part.

30 Section 902.

31

Rules, Regulations and Manual

32 (a) The [state education agency] shall issue, and from time to
 33 time amend and revise, rules and regulations for the implementation
 34 of this Part. Such rules and regulations shall include procedures for
 35 submission and review of plans and specifications and may include
 36 requirements for additional information to be furnished by school
 37 districts, Special Education Services Associations, or entities con-
 38 structing or proposing to construct special education facilities.

39 (b) The [state education agency] shall develop and publish a
 40 manual containing educational, and architectural standards to be
 41 met by special education facilities. The manual shall be incorporated
 42 in the rules and regulations issued pursuant to this Part and and no
 43 approval or acceptance of a facility shall be lawful, except on com-
 44 pliance with the standards contained therein.

1 (c) The manual shall be developed, amended, and revised with
 2 due regard for standards applicable to the construction of special
 3 education facilities issued by recognized professional organizations.

4 (d) Public and private builders and operators of special educa-
 5 tion facilities may consult with the [state education agency] con-
 6 cerning any matter related to the administration of this Part or any
 7 special education facility proposed to be constructed or operated by
 8 them, but no such consultation and no representation made shall be
 9 construed as an approval of plans and specifications. Such approval
 10 may be given only pursuant to Section 901 of this Act.

11 Part X. Finance

12 Section 1000.

13 State Aid to be Provided

14 The state shall provide financial aid in each school year to school
 15 districts and other [public entities] [entities entitled by the laws of
 16 this state to receive school aid] for educational and related services
 17 provided by them for handicapped children. Such aid shall be deter-
 18 mined and paid in accordance with this Part and rules and regula-
 19 tions of the [state education agency].

20 Section 1001.

21 Elements to be Aided

22 State financial aid pursuant to this Title may be claimed by and
 23 shall be paid to any public school district or other [public entity]
 24 [entities entitled by the laws of this state to receive school aid] for
 25 each of the following elements:

26 (a) The education of handicapped children in the regular school
 27 programs of the district or entity.

28 (b) The education of handicapped children in special classes,
 29 schools and programs designed to meet their special needs; and the
 30 furnishing of corrective or remedial services designed to ameliorate
 31 or eliminate physical, mental, emotional, or learning disabilities or
 32 handicaps.

33 (c) The furnishing of transportation.

34 Section 1002.

35 Amounts of Aid

36 (a) For purposes of entitlement to state aid, handicapped chil-
 37 dren shall be counted in the same manner as other children. [Per
 38 pupil aid shall be determined on the same basis as for normal chil-
 39 dren pursuant to [[cite appropriate section of state law]].] [Units
 40 shall be allotted for handicapped children in accordance with [[cite

1 appropriate provision of Minimum Foundation Program Laws]],
 2 except that allowance of any lesser number of pupils to comprise
 3 a standard or minimum unit shall continue as provided in [[cite
 4 appropriate section of state law]].]

5 (b) In addition to the state aid claimed and paid pursuant to
 6 subsection (a) hereof, any school district or Special Education Serv-
 7 ices Association which has maintained an approved program of edu-
 8 cation for handicapped children during any school year shall be
 9 entitled to and receive reimbursement from the state for the excess
 10 cost of the individuals in said program above the cost of pupils in
 11 the regular curriculum which shall be determined in the following
 12 manner:

13 1. Each district shall keep an accurate, detailed, and separate
 14 account of all money's paid out by it for the maintenance of each
 15 of the types of classes and schools for the instruction and care of
 16 pupils attending them and for the cost of their transportation, and
 17 shall annually report thereon, indicating the excess cost for elemen-
 18 tary or high school pupils for the school year ending [] over
 19 the last ascertained average cost for the instruction of regular chil-
 20 dren in the elementary public schools or public high schools as the
 21 case might be, of the school district for a like period of time of
 22 attendance.

23 2. Each Special Education Services Association shall keep an
 24 accurate, detailed, and separate account of all monies paid out
 25 by it for the maintenance of each of the types of classes and schools
 26 for the instruction and care of pupils attending them and for the
 27 cost of their transportation, and shall annually report thereon, indi-
 28 cating the excess cost for elementary or high school pupils for the
 29 school year ending in [] over the last ascertained average cost
 30 for the instruction of regular children in the elementary public
 31 schools or public high schools as the case might be, of the school
 32 districts served by the Special Education Services Association for a
 33 like period of attendance.

34 (c) [In addition to any state aid for the transportation of chil-
 35 dren to and from school and other transportation in connection
 36 with school-related activities], the [state education agency], upon a
 37 claim properly substantiated, shall pay 100 percent of the costs of
 38 special buses and other special equipment actually employed in
 39 transporting handicapped children.

40 Section 1003.

41 Apportionment of Aid

42 If any of the educational or other services aided pursuant to this
 43 Part are provided partly by one school district or other entitled

1 entity and partly by another such district or entity, and if there is
 2 no valid contract or agreement by which one of the districts or
 3 entities is the proper claimant for all the aid in question, each such
 4 district and entity shall be entitled to claim and receive a propor-
 5 tionate share of State aid in accordance with its actual assumption of
 6 costs. The [state education agency] shall provide for the calculation
 7 and apportionment of state aid in cases covered by this subsection.

8 Section 1004.

9

Special Fund

10 (a) There is hereby established a Special Education Fund in the
 11 state treasury. Each budget of the [state education agency] shall
 12 contain an appropriation item for the Fund. It is the legislative intent
 13 that the Fund shall be kept at a level that will permit an annual
 14 rate of expenditure therefrom of not less than [\$].

15 (b) The [state education agency] shall make grants from the
 16 Fund to school districts, special education services associations, and
 17 other appropriate entities. The purposes of such grants shall be to
 18 make it possible for the recipients to: 1. secure technical assistance
 19 with planning, design, acquisition, and construction of facilities or
 20 equipment for the education of handicapped children. 2. Supplement
 21 otherwise available but inadequate funds for planning, design acqui-
 22 sitions, or construction of facilities or equipment for the education
 23 of handicapped children.

24 (c) In applying for grants under this Section, a school district,
 25 special education services association, or other appropriate entities
 26 shall demonstrate that it proposes to use the aid for a purpose iden-
 27 tified in the state plan made pursuant to Section [] of this
 28 title as requiring particular current attention or for a purpose selected
 29 by the division of education for the handicapped as one currently
 30 to receive concentrated efforts at improvement.

31 (d) Grants pursuant to this Section shall be in addition to regular
 32 or special aid otherwise available from the state for educational
 33 purposes.

34 Section 1005.

35

Federal Aid

36 The [state education agency] may apply for, administer, receive,
 37 and expend any federal aid for which this state may be eligible in
 38 the administration of this Title. If such aid is available for a multi-
 39 state or regional program in which this state participates pursuant
 40 to one or more contracts in force pursuant to this Title, the [state
 41 education agency] may apply for and devote all or a portion of the
 42 federal aid to the multistate or regional program.